

# Union Calendar No. 136

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2401

[Report No. 112-208]

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

Mr. SULLIVAN (for himself, Mr. MATHESON, Mr. UPTON, Mr. WHITFIELD, Mr. SHIMKUS, Mr. WALDEN, Mr. LATTA, Mr. HARPER, Mrs. MCMORRIS RODGERS, Mr. MCKINLEY, Mr. TERRY, Mrs. CAPITO, Mr. POMPEO, Mr. ROSS of Arkansas, Mr. GUTHRIE, Mr. KINZINGER of Illinois, Mr. BILBRAY, Mr. TURNER, Mr. DUNCAN of Tennessee, Mr. BUCSHON, Mr. DUFFY, Mr. ROSKAM, Mrs. MYRICK, Mr. OLSON, Mr. JOHNSON of Illinois, Mr. ROKITA, Mr. COSTA, Mr. HOLDEN, and Mr. ROGERS of Kentucky) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 15, 2011

Additional sponsors: Mr. REHBERG, Mr. HUELSKAMP, Mr. RENACCI, Mr. SCALISE, Mr. RIBBLE, Mr. BACHUS, Mr. AUSTRIA, Mr. SMITH of Nebraska, Mr. NUNNELEE, Mr. DESJARLAIS, Mr. ROONEY, Mr. FLAKE, Mr. FARENTHOLD, Mr. ROGERS of Alabama, Mr. BONNER, and Mrs. EMERSON

SEPTEMBER 15, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 24, 2011]

# **A BILL**

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Transparency in Regu-*  
5 *latory Analysis of Impacts on the Nation Act of 2011”.*

6 **SEC. 2. COMMITTEE FOR THE CUMULATIVE ANALYSIS OF**  
7 **REGULATIONS THAT IMPACT ENERGY AND**  
8 **MANUFACTURING IN THE UNITED STATES.**

9 *(a) ESTABLISHMENT.—The President shall establish a*  
10 *committee to be known as the Committee for the Cumulative*  
11 *Analysis of Regulations that Impact Energy and Manufac-*  
12 *turing in the United States (in this Act referred to as the*  
13 *“Committee”) to analyze and report on the cumulative and*  
14 *incremental impacts of certain rules and actions of the En-*  
15 *vironmental Protection Agency, in accordance with sections*  
16 *3 and 4.*

17 *(b) MEMBERS.—The Committee shall be composed of*  
18 *the following officials (or their designees):*

19 *(1) The Secretary of Agriculture, acting through*  
20 *the Chief Economist.*

21 *(2) The Secretary of Commerce, acting through*  
22 *the Chief Economist and the Under Secretary for*  
23 *International Trade.*

24 *(3) The Secretary of Labor, acting through the*  
25 *Commissioner of the Bureau of Labor Statistics.*

1           (4) *The Secretary of Energy, acting through the*  
2           *Administrator of the Energy Information Adminis-*  
3           *tration.*

4           (5) *The Secretary of the Treasury, acting*  
5           *through the Deputy Assistant Secretary for Environ-*  
6           *ment and Energy of the Department of the Treasury.*

7           (6) *The Administrator of the Environmental*  
8           *Protection Agency.*

9           (7) *The Chairman of the Council of Economic*  
10          *Advisors.*

11          (8) *The Chairman of the Federal Energy Regu-*  
12          *latory Commission.*

13          (9) *The Administrator of the Office of Informa-*  
14          *tion and Regulatory Affairs.*

15          (10) *The Chief Counsel for Advocacy of the*  
16          *Small Business Administration.*

17          (11) *The Chairman of the United States Inter-*  
18          *national Trade Commission, acting through the Office*  
19          *of Economics.*

20          (c) *CHAIR.*—*The Secretary of Commerce shall serve as*  
21          *Chair of the Committee. In carrying out the functions of*  
22          *the Chair, the Secretary of Commerce shall consult with the*  
23          *members serving on the Committee pursuant to paragraphs*  
24          *(5) and (11) of subsection (b).*

1       (d) *CONSULTATION.*—*In conducting analyses under*  
2 *section 3 and preparing reports under section 4, the Com-*  
3 *mittee shall consult with, and consider pertinent reports*  
4 *issued by, the Electric Reliability Organization certified*  
5 *under section 215(c) of the Federal Power Act (16 U.S.C.*  
6 *8240(c)).*

7       (e) *TERMINATION.*—*The Committee shall terminate 60*  
8 *days after submitting its final report pursuant to section*  
9 *4(c).*

10 **SEC. 3. ANALYSES.**

11       (a) *SCOPE.*—*The Committee shall conduct analyses,*  
12 *for each of the calendar years 2016, 2020, and 2030, of the*  
13 *following:*

14               (1) *The cumulative impact of covered rules that*  
15 *are promulgated as final regulations on or before*  
16 *January 1, 2012, in combination with covered ac-*  
17 *tions.*

18               (2) *The cumulative impact of all covered rules*  
19 *(including covered rules that have not been promul-*  
20 *gated as final regulations on or before January 1,*  
21 *2012), in combination with covered actions.*

22               (3) *The incremental impact of each covered rule*  
23 *not promulgated as a final regulation on or before*  
24 *January 1, 2012, relative to an analytic baseline rep-*

1        *resenting the results of the analysis conducted under*  
2        *paragraph (1).*

3        *(b) CONTENTS.—The Committee shall include in each*  
4        *analysis conducted under this section the following:*

5                *(1) Estimates of the impacts of the covered rules*  
6        *and covered actions with regard to—*

7                        *(A) the global economic competitiveness of*  
8        *the United States, particularly with respect to*  
9        *energy intensive and trade sensitive industries;*

10                      *(B) other cumulative costs and cumulative*  
11        *benefits, including evaluation through a general*  
12        *equilibrium model approach;*

13                      *(C) any resulting change in national, State,*  
14        *and regional electricity prices;*

15                      *(D) any resulting change in national, State,*  
16        *and regional fuel prices;*

17                      *(E) the impact on national, State, and re-*  
18        *gional employment during the 5-year period be-*  
19        *ginning on the date of enactment of this Act, and*  
20        *also in the long term, including secondary im-*  
21        *acts associated with increased energy prices*  
22        *and facility closures; and*

23                      *(F) the reliability and adequacy of bulk*  
24        *power supply in the United States.*

1           (2) *Discussion of key uncertainties and assump-*  
2           *tions associated with each estimate.*

3           (3) *A sensitivity analysis.*

4           (4) *Discussion, and where feasible an assessment,*  
5           *of the cumulative impact of the covered rules and cov-*  
6           *ered actions on—*

7                   (A) *consumers;*

8                   (B) *small businesses;*

9                   (C) *regional economies;*

10                  (D) *State, local, and tribal governments;*

11                  (E) *local and industry-specific labor mar-*  
12           *kets; and*

13                  (F) *agriculture,*

14           *as well as key uncertainties associated with each*  
15           *topic.*

16           (c) *METHODS.—In conducting analyses under this sec-*  
17           *tion, the Committee shall use the best available methods,*  
18           *consistent with guidance from the Office of Information and*  
19           *Regulatory Affairs and the Office of Management and*  
20           *Budget Circular A–4.*

21           (d) *DATA.—In conducting analyses under this section,*  
22           *the Committee—*

23                   (1) *shall use the best data that are available to*  
24           *the public or supplied to the Committee by its mem-*  
25           *bers, including the most recent such data appropriate*

1       *for this analysis representing air quality, facility*  
2       *emissions, and installed controls; and*

3             (2) *is not required to create data or to use data*  
4       *that are not readily accessible.*

5       (e) *COVERED RULES.—In this section, the term “cov-*  
6 *ered rule” means the following:*

7             (1) *The following published rules (including any*  
8       *successor or substantially similar rule):*

9               (A) *“Federal Implementation Plans To Re-*  
10       *duce Interstate Transport of Fine Particulate*  
11       *Matter and Ozone”, published at 75 Fed. Reg.*  
12       *45210 (August 2, 2010).*

13              (B) *“National Ambient Air Quality Stand-*  
14       *ards for Ozone”, published at 75 Fed. Reg. 2938*  
15       *(January 19, 2010).*

16              (C) *“National Emission Standards for Haz-*  
17       *ardous Air Pollutants for Major Sources: Indus-*  
18       *trial, Commercial, and Institutional Boilers and*  
19       *Process Heaters”, published at 76 Fed. Reg.*  
20       *15608 (March 21, 2011).*

21              (D) *“National Emission Standards for*  
22       *Hazardous Air Pollutants for Area Sources: In-*  
23       *dustrial, Commercial, and Institutional Boilers”,*  
24       *published at 76 Fed. Reg. 15554 (March 21,*  
25       *2011).*



1           (E) “National Emission Standards for  
2           Hazardous Air Pollutants from Coal- and Oil-  
3           fired Electric Utility Steam Generating Units  
4           and Standards of Performance for Fossil-Fuel-  
5           Fired Electric Utility, Industrial-Commercial-  
6           Institutional, and Small Industrial-Commercial-  
7           Institutional Steam Generating Units”, signed  
8           by Administrator Lisa P. Jackson on March 16,  
9           2011.

10           (F) “Hazardous and Solid Waste Manage-  
11           ment System; Identification and Listing of Spe-  
12           cial Wastes; Disposal of Coal Combustion Re-  
13           siduals From Electric Utilities”, published at 75  
14           Fed. Reg. 35127 (June 21, 2010).

15           (G) “Primary National Ambient Air Qual-  
16           ity Standard for Sulfur Dioxide”, published at  
17           75 Fed. Reg. 35520 (June 22, 2010).

18           (H) “Primary National Ambient Air Qual-  
19           ity Standards for Nitrogen Dioxide”, published  
20           at 75 Fed. Reg. 6474 (February 9, 2010).

21           (2) The following additional rules or guidelines  
22           promulgated on or after January 1, 2009:

23           (A) Any rule or guideline promulgated  
24           under section 111(b) or 111(d) of the Clean Air

1           *Act (42 U.S.C. 7411(b), 7411(d)) to address cli-*  
2           *mate change.*

3           *(B) Any rule or guideline promulgated by*  
4           *the Administrator of the Environmental Protec-*  
5           *tion Agency, a State, a local government, or a*  
6           *permitting agency under or as the result of sec-*  
7           *tion 169A or 169B of the Clean Air Act (42*  
8           *U.S.C. 7491, 7492).*

9           *(C) Any rule establishing or modifying a*  
10          *national ambient air quality standard under*  
11          *section 109 of the Clean Air Act (42 U.S.C.*  
12          *7409).*

13          *(f) COVERED ACTIONS.—In this section, the term “cov-*  
14          *ered action” means any action on or after January 1, 2009,*  
15          *by the Administrator of the Environmental Protection*  
16          *Agency, a State, a local government, or a permitting agency*  
17          *as a result of the application of part C of title I (relating*  
18          *to prevention of significant deterioration of air quality) or*  
19          *title V (relating to permitting) of the Clean Air Act (42*  
20          *U.S.C. 7401 et seq.), if such application occurs with respect*  
21          *to an air pollutant that is identified as a greenhouse gas*  
22          *in “Endangerment and Cause or Contribute Findings for*  
23          *Greenhouse Gases Under Section 202(a) of the Clean Air*  
24          *Act”, published at 74 Fed. Reg. 66496 (December 15, 2009).*

1 **SEC. 4. REPORTS; PUBLIC COMMENT.**

2 (a) *PRELIMINARY REPORT.*—Not later than January  
3 31, 2012, the Committee shall make public and submit to  
4 the Committee on Energy and Commerce of the House of  
5 Representatives and the Committee on Environment and  
6 Public Works of the Senate a preliminary report containing  
7 the results of the analyses conducted under section 3.

8 (b) *PUBLIC COMMENT PERIOD.*—The Committee shall  
9 accept public comments regarding the preliminary report  
10 submitted under subsection (a) for a period of 90 days after  
11 such submission.

12 (c) *FINAL REPORT.*—Not later than August 1, 2012,  
13 the Committee shall submit to Congress a final report con-  
14 taining the analyses conducted under section 3, including  
15 any revisions to such analyses made as a result of public  
16 comments, and a response to such comments.

17 **SEC. 5. REGULATORY DEFERRAL OF CERTAIN RULES.**

18 (a) *NO FINAL ACTION.*—The Administrator of the En-  
19 vironmental Protection Agency shall not take final action  
20 with respect to the rule listed in subparagraph (E) of sec-  
21 tion 3(e)(1) (relating to national emission standards and  
22 standards of performance for certain electric generating  
23 units) until a date (to be determined by the Administrator)  
24 that is at least 6 months after the day on which the Com-  
25 mittee submits the final report under section 4(c).

1           **(b) RULES FINALIZED PRIOR TO ENACTMENT.**—Not-  
2 *withstanding the final action taken with respect to the rule*  
3 *listed in subparagraph (A) of section 3(e)(1) (relating to*  
4 *Federal implementation plans to reduce interstate trans-*  
5 *port of fine particulate matter and ozone) and final action*  
6 *(if any) taken with respect to the rule listed in subpara-*  
7 *graph (E) of section 3(e)(1) prior to the date of the enact-*  
8 *ment of this Act—*

9           (1) *such final action shall not be or become, as*  
10 *applicable, effective until a date (to be determined by*  
11 *the Administrator) that is at least 6 months after the*  
12 *day on which the Committee submits the final report*  
13 *under section 4(c); and*

14           (2) *the date for compliance with any standard or*  
15 *requirement in either such finalized rule, and any*  
16 *date for further regulatory action triggered by either*  
17 *such finalized rule, shall be delayed by a period equal*  
18 *to the period—*

19           (A) *beginning on the date of the publication*  
20 *of the final action for the respective finalized*  
21 *rule; and*

22           (B) *ending on the date on which such final*  
23 *action becomes effective pursuant to paragraph*  
24 *(1).*

1           (c) *APPLICABILITY OF CLEAN AIR INTERSTATE RULE*  
2 *DURING INTERIM PERIOD.*—*Notwithstanding any other*  
3 *provision of law, the Administrator of the Environmental*  
4 *Protection Agency shall continue to implement the Clean*  
5 *Air Interstate Rule and the rule establishing Federal Imple-*  
6 *mentation Plans for the Clean Air Interstate Rule as pro-*  
7 *mulgated and modified by the Administrator of the Envi-*  
8 *ronmental Protection Agency (70 Fed. Reg. 25162 (May 12,*  
9 *2005), 71 Fed. Reg. 25288 (April 28, 2006), 71 Fed. Reg.*  
10 *25328 (April 28, 2006), 72 Fed. Reg. 59190 (Oct. 19, 2007),*  
11 *72 Fed. Reg. 62338 (Nov. 2, 2007), 74 Fed. Reg. 56721*  
12 *(Nov. 3, 2009)) until the date on which final action with*  
13 *respect to the rule listed in subparagraph (A) of section*  
14 *3(e)(1) becomes effective pursuant to subsection (b)(1).*

15 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

16           (a) *AUTHORIZATION.*—*There are authorized to be ap-*  
17 *propriated to carry out this Act for fiscal year 2012—*

18                   (1) *\$3,000,000 to the Department of Commerce,*  
19                   *of which not more than \$2,000,000 shall be for car-*  
20                   *rying out section 3; and*

21                   (2) *\$500,000 to the Environmental Protection*  
22                   *Agency.*

23           (b) *OFFSET.*—*Effective October 1, 2011, section 797(a)*  
24 *of the Energy Policy Act of 2005, as amended by section*

1 *2(e) of the Diesel Reduction Act of 2010 (Public Law 111–*  
2 *364), is amended—*

3 *(1) by striking “2012” and inserting “2013”;*

4 *and*

5 *(2) by inserting “\$46,000,000 for fiscal year*  
6 *2012 and” after “to carry out this subtitle”.*



Union Calendar No. 136

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2401**

[Report No. 112-208]

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## **A BILL**

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

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SEPTEMBER 15, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed